

Senate File 2354 - Introduced

SENATE FILE 2354
BY COMMITTEE ON LABOR AND
BUSINESS RELATIONS

(SUCCESSOR TO SF 2110)

A BILL FOR

1 An Act concerning disqualification from eligibility for
2 unemployment benefits due to discharge for misconduct.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 96.5, subsection 2, Code 2018, is amended
2 by adding the following new paragraph:

3 NEW PARAGRAPH. *Ob.* Misconduct is deemed to have occurred
4 in circumstances including but not limited to any of the
5 following:

6 (1) Falsification by the individual of an employment
7 application or any other documentation provided to the employer
8 in order to obtain employment through subterfuge.

9 (2) Failure by the individual to maintain any license,
10 registration, or certification that is reasonably required
11 by the employer, or that is required by law, to perform the
12 individual's regular job duties, unless the failure is not
13 within the control of the individual.

14 (3) Disregard by the individual of the employer's
15 interests, of the individual's duties or obligations to the
16 employer, or of the individual's duties or obligations under
17 the employer's employment policies.

18 (4) Damage by the individual of the employer's property
19 through conduct that is grossly negligent.

20 (5) Refusal by the individual to obey an employer's
21 reasonable and lawful instruction, unless the refusal is due to
22 the lack of ability, skills, or training of the individual or
23 the instruction would require an unsafe act.

24 (6) Consumption by the individual of alcohol or illegal
25 or nonprescribed prescription drugs, or use by the individual
26 of an impairing substance in an off-label manner, on the
27 employer's premises during working hours in violation of the
28 employer's employment policies.

29 (7) Reporting to work under the influence of alcohol,
30 illegal or nonprescribed prescription drugs, or an impairing
31 substance used in an off-label manner, in violation of
32 the employer's employment policies, unless the individual
33 is compelled to report to work by the employer outside of
34 scheduled or on-call working hours and informs the employer
35 prior to or upon arrival at the workplace that the individual

1 is under the influence of alcohol, illegal or nonprescribed
2 prescription drugs, or an impairing substance used in an
3 off-label manner in violation of the employer's employment
4 policies.

5 (8) Grossly negligent conduct by the individual that
6 endangers the safety of the individual, coworkers, or the
7 general public.

8 (9) Conduct by the individual that is defamatory toward the
9 employer or an employee of the employer if such conduct is not
10 protected under federal or state law.

11 Sec. 2. Section 96.6, subsection 2, Code 2018, is amended
12 to read as follows:

13 2. *Initial determination.* A representative designated by
14 the director shall promptly notify all interested parties to
15 the claim of its filing, and the parties have ten days from
16 the date of mailing the notice of the filing of the claim by
17 ordinary mail to the last known address to protest payment of
18 benefits to the claimant. The representative shall promptly
19 examine the claim and any protest, take the initiative to
20 ascertain relevant information concerning the claim, and, on
21 the basis of the facts found by the representative, shall
22 determine whether or not the claim is valid, the week with
23 respect to which benefits shall commence, the weekly benefit
24 amount payable and its maximum duration, and whether any
25 disqualification shall be imposed. The claimant has the burden
26 of proving that the claimant meets the basic eligibility
27 conditions of [section 96.4](#). The employer has the burden of
28 proving that the claimant is disqualified for benefits pursuant
29 to [section 96.5](#), except as provided by [this subsection](#). The
30 claimant has the initial burden to produce evidence showing
31 that the claimant is not disqualified for benefits in cases
32 involving [section 96.5, subsections 10 and 11](#), and has the
33 burden of proving that a voluntary quit pursuant to section
34 96.5, subsection 1, was for good cause attributable to the
35 employer and that the claimant is not disqualified for benefits

1 in cases involving section 96.5, subsection 1, paragraphs
 2 "a" through "h". When making a determination as to whether
 3 a claimant is disqualified for benefits pursuant to section
 4 96.5, subsection 2, the representative shall not consider
 5 whether, to what extent, or in what manner an employer imposed
 6 disciplinary action upon the claimant for any past misconduct
 7 by the claimant. Unless the claimant or other interested
 8 party, after notification or within ten calendar days after
 9 notification was mailed to the claimant's last known address,
 10 files an appeal from the decision, the decision is final
 11 and benefits shall be paid or denied in accordance with the
 12 decision. If an administrative law judge affirms a decision of
 13 the representative, or the appeal board affirms a decision of
 14 the administrative law judge allowing benefits, the benefits
 15 shall be paid regardless of any appeal which is thereafter
 16 taken, but if the decision is finally reversed, no employer's
 17 account shall be charged with benefits so paid and this relief
 18 from charges shall apply to both contributory and reimbursable
 19 employers, notwithstanding section 96.8, subsection 5.

20 Sec. 3. CONFLICTING DECISIONS VOID. A decision or ruling
 21 by the department of workforce development or a court, or any
 22 portion thereof, pertaining to misconduct pursuant to section
 23 96.5, subsection 2, occurring on or after the effective date
 24 of this Act, is void to the extent such decision or ruling
 25 conflicts with section 96.5, subsection 2, paragraph "0b", as
 26 enacted in this Act.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
 29 the explanation's substance by the members of the general assembly.

30 Under current law, an individual is disqualified from
 31 eligibility for unemployment benefits if the department of
 32 workforce development finds that the individual has been
 33 discharged for misconduct in connection with the individual's
 34 employment. "Misconduct" is defined by the department by rule.
 35 This bill provides that misconduct is deemed to have

1 occurred in circumstances including but not limited to certain
2 circumstances specified in the bill, some of which include
3 falsification of an employment application or any other
4 documentation provided to the employer in order to obtain
5 employment through subterfuge; failure to maintain any required
6 license, registration, or certification; and damage by the
7 individual of the employer's property through conduct that is
8 grossly negligent.

9 The bill also prohibits the department from considering
10 whether, to what extent, or in what manner an employer imposed
11 disciplinary action upon an individual for any past misconduct
12 by the individual when making a determination as to whether the
13 individual is disqualified for benefits due to being discharged
14 for misconduct.